United Nations S/2006/506

Security Council

Distr.: General
19 July 2006

Original: English

Letter dated 17 July 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Finland submitted pursuant to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-43704 (E) 170806

Annex

Letter dated 14 July 2006 from the Permanent Representative of Finland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

With reference to the letter from the Chairman of the Counter-Terrorism Committee dated 15 May 2006 regarding the implementation of Security Council resolution 1624 (2005), I have the pleasure to enclose herewith further information provided by the Government of Finland, as requested (see enclosure).

(*Signed*) Kirsti **Lintonen**
Ambassador
Permanent Representative

Enclosure

Report to the Counter-Terrorism Committee of the Security Council in response to its questions on Finland's implementation of the provisions of resolution 1624(2005) presented in its letter of 15 May 2006

PARAGRAPH 1

1.1 What measures does Finland have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Chapter 5, section 5 of the Finnish Penal Code (39/1889) establishes incitement as a criminal offence. Any person who intentionally persuades another person to commit an intentional offence or to make a punishable attempt at such an act is punishable for incitement to the offence as if he/she was the offender. This general criminal liability of an inciter also applies to terrorist offences made punishable by chapter 34 a of the Penal Code. Chapter 34 a was incorporated into the Penal Code on 1 February 2003 in order to implement the EU Council Framework Decision of 13 June 2002 on Combating Terrorism.

Additionally, chapter 17, section 1 of the Penal Code establishes public incitement to an offence as a criminal offence. A person who through the mass media or publicly in a crowd or in a generally published writing or other presentation exhorts or incites anyone into the commission of an offence, so that the exhortation or incitement (1) causes a danger of the offence or a punishable attempt being committed, or (2) otherwise clearly endangers public order or security, shall be sentenced for public incitement to an offence. The penalty for public incitement to an offence is a fine or imprisonment for at most two years. Such incitement may also relate to terrorist offences. If the exhortation or incitement causes the commission of a terrorist offence or a punishable attempt thereof, the inciter is sentenced to punishment for incitement to a terrorist offence pursuant to chapter 5, section 5 of the Penal Code as if he/she was the offender.

The prevention of terrorism is further supported by chapter 34 a, section 2 of the Penal Code, which broadly criminalizes the preparation of offences to be committed with terrorist intent. Also the financing of terrorism is a punishable act, irrespective of whether a terrorist offence is committed (chapter 34 a, section 5 of the Penal Code).

Finland signed on 16 May 2005 the Council of Europe Convention on Prevention of Terrorism. The Convention establishes as criminal offences certain acts that may lead to the commission of terrorist offences, i.e. public provocation to commit a terrorist offence (Article 5), recruitment for terrorism (Article 6) and training for terrorism (Article 7). For the national implementation of the Convention on Prevention of Terrorism, Finland is drafting an amendment of chapter 34 a, section 4 of the Penal Code (promotion of the activity of a terrorist group) that would, at least for some acts, make the fulfilment of the elements of the offence independent of the commitment of a terrorist offence or a punishable attempt thereof. Finland hopes to ratify the Convention before the end of the year 2006.

1.2 What measures does Finland take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Grounds for refusal of entry and prohibition of entry to Finland

According to section 148 of the Finnish Aliens Act, an alien may be refused entry into the country if there are grounds to suspect that the alien may commit an offence which is punishable by imprisonment in Finland, commit repeated offences, or was sentenced for an offence during his/her residence in Finland. Entry can be refused also if there are grounds to suspect that he/she may engage in activities that endanger Finland's national security or relations with a foreign State. In certain cases an alien may also be prohibited from entering the country (section 150 of the Aliens Act).

The Security Police participates in the procedure for verifying whether the requirements for entry are met, by providing, when necessary, information to other security and immigration authorities.

General requirements for issuing residence permits

According to section 36 of the Aliens Act, a residence permit may be refused if the alien is considered a danger to public order, security or health, or Finland's foreign relations. Section 37 of the Act provides that a residence permit must be refused if the alien is found guilty or suspected of an offence punishable by imprisonment, or if he/she is found guilty or suspected of two or more offences.

Grounds for deportation

According to section 149 of the Aliens Act, an alien who has resided in Finland under a residence permit may be deported if he/she is found guilty of an offence punishable by imprisonment for a maximum of a year, or if he/she is found guilty of repeated offences. He/she may be deported also if his/her activities show that he/she is liable to endanger other people's safety, or if he/she has been engaged, or there are grounds to suspect that he/she may engage, in activities that endanger Finland's national security or relations with a foreign State.

Entry, residence and removal of country of citizens of the European Union

EU citizens can also be refused entry or right of residence in certain cases. One requirement for an EU citizen's entry into and residence in the country is that the EU citizen or his or her family members or other relatives are not considered a danger to public order and security or public health. EU citizens and their family members can also be deported and prohibited from entering the country if they are considered a danger to public order and security or public health.

Citizenship

According to section 13 of the Nationality Act (359/2003), a general requirement for naturalisation is that the person in question has not committed any punishable act. An applicant will not be naturalised if this is prejudicial to the safety of the State or to public order and security. Section 4 of the Act provides that a decision concerning loss of citizenship must not be made if, as a consequence of the decision, a person were to become stateless.

PARAGRAPH 2

1.3 How does Finland cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

The Finnish Border Guard cooperates closely with border guards in other countries. Finland participates in the cooperation of border guards in the European Union and in other regional fora, such as the Baltic Sea Region Border Control Cooperation. Finland practices bilateral cooperation with the Russian Border Guard, as well as with other countries, for example through information exchange.

At the European level, Finland participates, *inter alia*, in the work of the Terrorism Working Group (TWG) of the EU Council, the European Police Office (Europol) and the Counter Terrorist Group (CTG), which is a cooperation platform between the Security Services in Europe. The Europol, in particular, facilitates the exchange of crime-related information and intelligence and collects in its databanks information on terrorism that can also be used to combat fraudulent travel documents and smuggling of persons. In addition, bilateral cooperation is practised between the Security Services in Europe on a daily basis.

In respect of the cooperation on land transport security, the international activities of the police, the Border Guard and the Customs are relevant. At EU level, also the drafting and supervision of legislation on land transport of dangerous goods is connected with the prevention of terrorism. Moreover, the EU Commission's proposal on enhancing supply chain security has connections with the fight against terrorism.

On sea transport on Finnish vessels and in harbours, the International Ship and Port Facility Security Code (ISPS Code) adopted by the IMO and approved by the EU has been implemented. The purpose of this Code is to enhance border security and to hinder free movement of persons and materials with terrorist intent by means of such measures as inspections of cargo and persons and their luggage. Above all, the inspections are targeted to departing transports, but added endeavouring to guarantee that all cargo and persons departing from Finland are appropriate.

The ISPS Code can be considered to have a significant impact on Finland's border security. According to the so-called reciprocity principle, Finland is entitled to require the level of security measures at the place of departure for cargo and persons arriving into Finland that is equivalent to the security level in Finland. Reports from Finnish vessels and other actors have proven that this procedure functions well. Response to clear defects has been possible in the MARSEC forum of the EU.

In respect of security arrangements directed at civil aviation passengers, Finland cooperates broadly with the International Civil Aviation Organization (ICAO) and its European sub-organisation, ECAC. Finland is represented in the ECAC Security Forum by, inter alia, the Finnish Civil Aviation Authority, the police and the Border Guard. Additionally, the Nordic working group on aviation safety is an important cooperation forum of the Nordic Countries, where Finland is represented by such bodies as the Finnish Civil Aviation Authority, Finavia, Finnair and the police. The activities of the Nordic working group on aviation safety are directed by the Meeting of Nordic Aviation Directors (NOLU).

PARAGRAPH 3

1.4 What international efforts is **Finland participating in** or **considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures**?

The European Union adopted in December 2005 a Strategy for Combating Radicalisation and Recruitment to Terrorism. Finland is working actively to implement the Strategy at the national level. The implementation of the Strategy is also a priority for Finland's EU Presidency in July-December 2006.

Events in the area of intercultural dialogue scheduled for the latter half of the year 2006 include the following:
- Helsinki Process, Round table discussion on "Participation as an Alternative to Extremism", 11-12 July 2006, Amman, Jordan;
- Exordium, a Colloquium, "Democratisation and Human Rights: Cultural Diversity and Fundamental Rights - Towards a Common Space", 20-22 July, Tampere, Finland;
- Meeting of national networks of Anna Lindh Foundation, "Intercultural Dialogue", 26-27 November, Tampere, Finland;
- "Challenging stereotypes in Europe and the Islamic world: Working together for constructive policies and partnerships", a seminar planned for 22-23 November 2006, Jakarta, Indonesia;
- Espoo Cultural Forum, "Religions and Cultures - From Confrontation towards Genuine Dialogue", 30 November - 2 December 2006, Espoo, Finland.

Furthermore, the ASEM Summit Meeting will be organised in Helsinki on 10-11 September 2006. Finland is also a member of the group of friends of the Alliance of Civilizations.

1.5 **What steps is Finland taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters**?

Prevention of terrorism in education

The general societal situation in Finland is stable, and educational institutions have seen no need to take any particular protective measures against terrorist activities or extremist elements. Risk factors for terrorism are prevented by means of educational policy based on equality and a safe growth milieu provided by schools.

The Finnish educational legislation is based on the promotion of civilization and equality in society. Everyone must be guaranteed educational opportunities of a high standard, irrespective of financial standing, place of residence, gender, age or language. The educational system is also geared to help immigrant population integrate into Finnish society. Human rights, equality, democracy and acceptance of multiculturalism are basic principles also in the national curricula for different levels of education. The curricula take account of the special features of the education to be provided to different linguistic and cultural groups, and underline the diversification of Finnish culture caused by immigration from different cultures.

In Finland, educational services are provided on a very equal basis, regarding both the supply and the quality of education. According to the OECD (Pisa Survey 2003), the regional differences in students' learning results and their learning differences based on social background are smaller in Finland than in the OECD countries on average. Also the differences in participation in education due to parents' educational background and social standing are smaller than in the rest of Europe. However, Finland aims at further reducing these differences. Safeguarding every student's future after basic education is another important challenge to the educational system.

The educational legislation has been supplemented by provisions on student welfare and students' right to a safe learning environment (2003). Their purpose is to create a healthy and safe learning and working environment, protect mental health, prevent exclusion and increase the well-being of work communities. Providers of education are obliged to prepare plans protecting pupils and students against violence, bullying and harassment and to supervise compliance with and implementation of the plans. When needed, separate crisis plans may be prepared under the direction of the National Board of Education.

Culture

In the field of arts and culture, the Ministry of Education supports the opportunities of members of cultural minorities to preserve and develop their own culture. When granting subsidies, the Ministry has prioritised activities that promote good ethnic relations and take account of human rights, inter alia the objective of equality.

Youth work

The authorities responsible for youth work have provided versatile support for young immigrants' own civic activities that are aimed to promote active citizenship and integration and to strengthen social participation. Such activities improve young people's resistance to different extremist movements using violent means and support them in building a new Finnish identity. These activities have succeeded in achieving their objectives.

Sports activities

In the field of sports activities, the responsible authorities have continued to promote tolerance through sports, jointly with umbrella sports organisations. These measures have increased the participation of immigrants in sports activities in Finland.

PARAGRAPH 4

1.6 What is Finland doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624(2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?

Measures implementing paragraph 1 of resolution 1624(2005)

Chapter 34 a of the Finnish Penal Code (39/1889) contains provisions that criminalize offences with terrorist intent. According to the Penal Code, Finnish law applies, regardless of the law of the place of commission, also to offences referred to in chapter 34 a committed outside of Finland.

According to the Constitution of Finland, no one shall be found guilty of a criminal offence or be sentenced to a punishment on the basis of a deed which has not been determined punishable by an Act at the time of its commission.

The Criminal Investigations Act (449/1987) provides that, in a criminal investigation of a suspected offence, circumstances and evidence both against the suspect and in favour of him/her must be examined and taken into account. Additionally, the suspect must be treated as not guilty during the investigation.

The Finnish legislation on law enforcement authorities obligates them to treat all persons in an equitable, conciliatory and human manner. Law enforcement authorities supervise the activities of both the aforementioned authorities and the courts on a regular and comprehensive basis.

According to the Constitution, everyone in Finland has the freedom of religion. Discrimination based on ethnic origin or religion is criminalized in Finland. The Ombudsman for Minorities is, for its part, responsible for reducing tensions between different cultures and safeguarding the status and rights of different minorities.

Due to the above-mentioned legal provisions, the related civil servant culture and the regular supervision of activities, a person suspected of a terrorist offence is treated in Finland in an appropriate manner, pursuant to the international obligations binding on Finland.

As for the measures mentioned in the answer to question 1.2, section 146 of the Aliens Act provides that, when considering refusal of entry to Finland, deportation or prohibition of entry and the duration of the prohibition of entry, account shall be taken of all relevant circumstances, such as the length and purpose of the alien's residence in Finland and the alien's ties to Finland. Particular attention shall be paid to the best interest of children and the protection of family life. If the decision is based on any criminal activity of the alien, account shall be taken of the seriousness of the criminal act.

According to section 147 of the Aliens Act, no one may be refused entry and sent back or deported to an area where he or she could be subject to death penalty, torture, persecution or other treatment violating human dignity or from where he or she could be sent to such an area. Further, according to section 9 of the Constitution of Finland, a foreigner shall not be deported, extradited or returned to another country, if in consequence he or she is in danger of a death sentence, torture or other treatment violating human dignity.

The Finnish legal provisions on granting asylum comply with the Geneva Refugee Convention. Asylum is not granted if there are reasonable grounds to suspect that the alien has committed a crime against peace, war crime or crime against humanity as defined by international agreements. Asylum is not granted either if there are reasonable grounds to suspect that the alien has committed a serious non-political crime, or an act which violates the aims and principles of the United Nations. Even if this exclusion clause is applied, the authorities are bound by the principle of non-refoulement. If the principle of non-refoulement prevents the authorities from removing a person from Finland, the person concerned will be issued with a temporary residence permit.

According to section 149 of the Aliens Act, a refugee may not be deported to his or her home country or country of permanent residence against which he or she still needs international protection. A refugee may only be deported to a State which agrees to admit him or her.

Furthermore, Finland has actively participated in the creation of international standards for combining effective measures against terrorism and full compliance with human rights obligations. In this respect, special attention should be paid to the Council of Europe Convention on the Prevention of Terrorism, to which the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has referred to as "a sound response which would respect human rights" (Report E/CN.4/2006/98).

One of the key provisions of the Convention is Article 12 that underlines that the protection of human rights and fundamental freedoms must be ensured in the fight against terrorism. According to paragraph 1 of Article 12, States Parties shall ensure that the establishment, implementation and application of the criminalisation under Articles 5 to 7 and 9 of the Convention are carried out while respecting human rights obligations, in particular the right to freedom of expression,

freedom of association and freedom of religion, as set forth in, where applicable to that Party, the Convention fo
Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Righ
other obligations under international law. Paragraph 2 of Article 12 provides that the criminalisation should be s
the principle of proportionality, with respect to the legitimate aims pursued and to their necessity in a democrati
and should exclude any form of arbitrariness or discriminatory or racist treatment. Moreover, human rights cons
have been taken into account in the definitions of the offences of the Convention. Special Rapporteur has in part
drawn attention to the fact that the definition of public provocation of terrorism in Article 5 is "based on a doubl
requirement of a subjective intent to incite (encourage) the commission of terrorist offences and an objective da
one or more such offences would be committed".

Finland has signed the Council of Europe Convention on the Prevention of Terrorism and is preparing the ratific
the Convention (see above 1.1).

Measures implementing paragraph 2 of resolution 1624(2005)

Finland participates in the common visa policy of the European Union, which is regulated by the Schengen Acq
grounds for the issue of visas are laid down in the Common Consular Instructions on Visas. Article 6 of the Trea
European Union provides a framework for the protection of human rights and fundamental freedoms in develop
Schengen Acquis.

Increasing attention is being paid, in particular, to the reinforcement of information systems, to interviews with p
applying for visas as well as to document security. Data security has been considered a focal point in the legislat
with visa-related data systems. Data security has a strong connection with the right of an individual to respect fo
private life in accordance with international human rights law. It should also be recalled that international human
law does not give a person a subjective right to enter into the territory of a foreign state. While the European Un
promotes the free movement of people, its internal regulations also allow the security considerations to be taken
account in individual cases when there is a risk connected with paragraph 1 of resolution 1624(2005).

The ISPS Code for maritime transport adopted by the IMO has been implemented in Finland through EU and na
legislation. Detailed provisions implementing the Code are laid down in the EU Regulation on enhancing ship a
facility security and in national legislation of Finland. During the drafting, it has been ensured at all levels that th
and the implementing legislation do not conflict with international law. Finland's activities comply with both its
international and its national obligations. The same concerns aviation security arrangements and the drafting and
implementation of the related international and national legislation.

Measures implementing paragraph 3 of resolution 1624(2005)

See answers to questions 1.4 and 1.5 above.